

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark L. Wasserman, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (410) 333-5032

Board of Appeals
Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member

— DECISION —

Decision No.:	42-BR-93
Date:	January 12, 1993
Claimant:	Loay L. Twigg
Appeal No.:	92-CWC-396
S. S. No.:	
Employer:	Mineral Co. Bd. of Ed.
L. O. No.:	3
Appellant:	EMPLOYER
Issue:	Whether the claimant had a contract or reasonable assurance of returning to work under §8-909 of the Labor and Employment Article.

— NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAYBE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES

February 11, 1993

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:
REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals reverses the decision of the Hearing Examiner.

The Board agrees with the Hearing Examiner that merely being on a substitute teacher list does not necessarily mean that a person has a "reasonable assurance" of performing substitute teaching in the subsequent year.

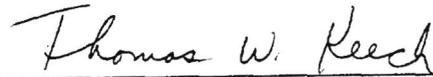
In this case, however, the claimant worked over 170 of the 180 days of the past school year, and 80% of those days were, by the claimant's own admission, worked for this employer.

Considering this history of substantial continued employment, the Board concludes that the claimant did have reasonable assurance of returning to work as a substitute teacher. He is thus disqualified from benefits under §8-809 of the Labor and Employment Article.

DECISION

The claimant had a reasonable assurance of working in an instructional capacity at the beginning of the next following academic term, within the meaning of §8-909(a)(2) of the law. He is disqualified from the receipt of benefits based on service performed for the Mineral County Board of Education from June 14, 1992 through August 29, 1992.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

K:H

kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

The Gibbens Company

UNEMPLOYMENT INSURANCE - CUMBERLAND

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark L. Wasserman, Secretary

Gary W. Wiedel, Administrator
Louis W'm. Steinwedel, Chief Hearing Examiner

Room 501
1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: (410) 333-5040

— DECISION —

Mailed: 09/29/92

Claimant: Loay L. Twigg
Date: 92-CWC-396
Appeal No.:
S. S. No.:
Employer: Mineral County BD of ED
L. O. No.: 03
Appellant: Claimant
Issue: Whether the claimant had a contract or reasonable assurance of returning to work under MD Code, Title 8, Section 909(b).

— NOTICE OF RIGHT OF FURTHER APPEAL —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAY BE FILED IN ANY OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE BOARD OF APPEALS, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

October 14, 1992

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES ON
NOTICE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL, ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK.

— APPEARANCES —

FOR THE CLAIMANT:
Claimant - Present

FOR THE EMPLOYER:
Represented by:
JoAnn Flynn,
Secretary;
Christopher Peltz,
Gibbens Company

FINDINGS OF FACT

The claimant worked as a substitute teacher for the Mineral County Board of Education during the 1991-1992 school year. The claimant is not certified as a teacher, nor does he hold a degree as a teacher. The claimant is currently on the list of substitute teachers; however, he has no reasonable assurance

that he would be called to perform services as a substitute for the 1992/1993 school year.

CONCLUSIONS OF LAW

The MD Code, Labor and Employment Article, Title 8, Section 909(b) provides that "An individual is not eligible for benefits based on covered employment performed for an educational institution or for a governmental entity or not for profit organization on behalf of an educational institution in a capacity other than an instructional, principal administrative, or research capacity for any week of unemployment that begins during a period between 2 successive academic terms or years if: (i) the individual performed the covered employment in the 1st term or year; and (ii) there is reasonable assurance that the individual will perform the covered employment in the 2nd term or year."

The record reflects that although the claimant is currently on the substitute teacher list for the academic year 1992-1993, he has no reasonable assurance that he would perform for the Mineral County Board of Education during the 1992-1993 school year. Because the claimant is not certified as a teacher or hold a degree in teaching, he has no guarantee that he will be called as a certified teacher. In this case, merely being on a list of substitute teachers does not establish that the claimant has a reasonable assurance of performing 'work as a substitute teacher.

DECISION

It is held that the claimant does not have a reasonable assurance of performing work for the Mineral County Board of Education for the academic year 1992-1993. No disqualification is imposed based on this Section of the Law provided the claimant is otherwise in compliance with the Law. The claimant may contract his local office regarding the other eligibility requirements of the Law.

The determination of the Claims Examiner is reversed.


Lori Gomyka
Hearing Examiner

Date of Hearing: 9/31/92
ec/Specialist ID: 03264
Cassette Attached
Copies mailed on 09/29/92 to:

Claimant
Employer
Unemployment Insurance - Cumberland (MABS)

Gibbens Company